

\_\_\_\_\_ BILL NO. \_\_\_\_\_

INTRODUCED BY \_\_\_\_\_  
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO ELIGIBLE CARRIER STATUS AND UNIVERSAL SERVICE SUPPORT; CLARIFYING THE TERM "SERVICE AREA"; PROVIDING CRITERIA FOR DETERMINING THE PUBLIC INTEREST IN DESIGNATING AN ADDITIONAL ELIGIBLE TELECOMMUNICATIONS CARRIER FOR AN AREA SERVED BY A RURAL TELEPHONE COMPANY; REQUIRING THE PUBLIC SERVICE COMMISSION TO GRANT OR DENY A PETITION FOR ELIGIBLE CARRIER STATUS WITHIN 180 DAYS; AMENDING SECTION 69-3-840, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 69-3-840, MCA, is amended to read:

**"69-3-840. Determination of eligible carrier status -- universal service support.** (1) The commission is authorized to designate telecommunications carriers as eligible for federal universal service support, in accordance with 47 U.S.C. 214(e)(1) and 47 U.S.C. 254, and for any Montana universal service funds. This authorization applies to all telecommunications carriers notwithstanding the carrier's exemption from further regulation by the commission.

(2) Upon the petition of a telecommunications carrier or upon its own motion, the commission shall designate a telecommunications carrier that meets the requirements of 47 U.S.C. 214(e)(1) as an eligible telecommunications carrier for a service area designated by the commission. In the case of an area served by a rural telephone company, the term "service area" means the company's "study area" for federal universal service support unless the federal communications commission and the commission, after taking into account recommendations of a federal-state joint board instituted under 47 U.S.C. 410(c), establish a different definition of service area for the company. The term "service area" for all other telecommunications carriers means a geographic area, such as a wire center, an exchange, a census block, or a grid block, as established by the commission for the purpose of determining federal universal service obligations and support mechanisms.

(3) (a) Upon receiving a petition from a telecommunications carrier and consistent with the public interest, convenience, and necessity, the commission may, in the case of an area served by a rural telephone

company, and shall, in the case of all other areas, designate more than one telecommunications carrier for a service area, so long as each additional requesting telecommunications carrier meets the requirements of 47 U.S.C. 214(e)(1).

(b) Before Except as provided in subsections (3)(c) and (3)(e), before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the commission shall find that the designation is in the public interest if the designation has a projected annual monetary impact on the total federal universal service fund of less than 0.25%.

(c) Except as provided in subsection (3)(e), if the designation has a projected annual monetary impact on the total federal universal service fund of 0.25% or more, then the commission, in determining that the designation for an area served by a rural telephone company is in the public interest, may consider only whether:

(i) the designation would increase competitive choice for consumers residing or working within the relevant service area;

(ii) the requesting telecommunications carrier has the ability on the date that the carrier filed the petition for designation to provide the supported services pursuant to 47 CFR 54.101(a), either through the carrier's own facilities or through a combination of the requesting telecommunications carrier's facilities and a resale of another telecommunications carrier's facilities;

(iii) economic development and public health, safety, and welfare will be promoted if an additional telecommunications carrier is designated as an eligible telecommunications carrier-;

(iv) the designation will advance universal service and promote the deployment of new technologies to rural consumers; and

(v) the consumers within the relevant service area would experience any significant adverse effects.

(d) The commission's determination of the public interest under this subsection (3) must be technologically neutral, and the commission may not discriminate among telecommunications technologies, whether those technologies are wireline or wireless.

(e) If the federal communications commission adopts mandatory guidelines or factors to determine whether the addition of an eligible telecommunications carrier is in the public interest, the provisions of subsections (3)(b) and (3)(c) are preempted and the commission may not apply or adopt additional guidelines or factors to determine the public interest other than those adopted by the federal communications commission.

(4) The commission shall issue an order granting or denying a petition by a telecommunications carrier requesting designation as an eligible telecommunications carrier within 180 days from the date on which the

petition is filed with the commission or, if a petition is filed prior to [the effective date of this act], within 180 days from [the effective date of this act]. If the commission fails to issue an order granting or denying a petition requesting an eligible telecommunications carrier designation within 180 days, the petition is considered granted and the commission shall take all actions necessary to allow the telecommunications carrier to qualify for and receive federal universal support.

~~(4)~~(5) If no telecommunications carrier will provide the services that are supported by universal service support mechanisms under 47 U.S.C. 254(c) to all or a part of an unserved community that requests service, the commission shall determine which telecommunications carrier is best able to provide the service to the requesting unserved community. Any telecommunications carrier ordered to provide service under this section shall meet the requirements of 47 U.S.C. 214(e)(1) and must be designated as an eligible telecommunications carrier for that community or the unserved portion of the community.

~~(5)~~(6) The commission shall permit an eligible telecommunications carrier to relinquish its designation as an eligible telecommunications carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the commission of the relinquishment. Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the commission shall require the remaining eligible telecommunications carrier to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The commission shall establish a time, not to exceed 1 year after the commission approves relinquishment under this section, within which the purchase or construction must be completed."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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